

EXHIBIT A

From: Steven Moser <steven.moser@moserlawfirm.com>
Sent: Monday, July 18, 2022 2:50 PM
To: Francesco A. DeLuca
Cc: Jeffrey H. Ruzal
Subject: RE: Hess v. BBB - Briefing Schedule Extension

*** EXTERNAL EMAIL ***

I cannot consent to this, as you never previously raised this issue. We have had a stay in effect for a year based upon basic representations concerning your motion to dismiss. Any such motion would be untimely and improperly asserted. Moreover, defendant did not respond to Plaintiff's statement of jurisdiction to Judge Torres.

Please advise if you will consent to a stay of the motions with Judge Cogan pending submission of your motion to dismiss in Hess. The extent to which identical arguments will be made to two different courts implicates comity and judicial consistency, both factors involved in analyzing whether transfer is appropriate under 1404.

SJM

From: Francesco A. DeLuca <FDeLuca@ebglaw.com>
Sent: Monday, July 18, 2022 2:29 PM
To: Steven Moser <steven.moser@moserlawfirm.com>
Cc: Jeffrey H. Ruzal <JRuzal@ebglaw.com>
Subject: RE: Hess v. BBB - Briefing Schedule Extension

Steve,

In the draft of the letter regarding consolidated briefing on plaintiffs' motion to amend and defendant's motion to dismiss that we sent you on May 27, 2022, we stated:

If Your Honor grants Defendant's request, Defendant intends to file a motion to dismiss the Second Amended Complaint on largely the same grounds that it will argue the proposed Third Amended Complaint is futile. Specifically, in addition to the grounds set forth in Defendant's pre-motion letter requesting permission to move to dismiss the First Amended Complaint (i.e., lack of Article III standing and the absence of a private right of action under NYLL § 191)—which the Court granted, see Dkt. No. 21; Dkt. No. 23—Defendant intends to argue that NYLL § 191's liquidated damages provision violates

the Fourteenth Amendment's Due Process Clause and that the Court should dismiss the claims under the Class Action Fairness Act's local controversy or home state exception.

However, in the version of the letter that you filed on June 10, 2022 without our permission, you unilaterally excluded this portion of the letter. If you had not made that revision, the Court would have been well aware of the precise arguments we intend to make in our consolidated brief.

Please let us know whether you consent to our request for an extension. Again, if we don't hear from you by 5:00 p.m., we will assume that you do not consent.

Best,

Fran



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From: Steven Moser <steven.moser@moserlawfirm.com>
Sent: Monday, July 18, 2022 11:50 AM
To: Francesco A. DeLuca <FDeLuca@ebglaw.com>
Subject: RE: Hess v. BBB - Briefing Schedule Extension

*** EXTERNAL EMAIL ***

I'm not asking for you to disclose the precise nature of what you are seeking from the third party. However, the only issues raised with Judge Lehrburger were (1) Article III standing (2) no private right of action under NYLL 191 and (3) due process under the 14th Amendment. Am I missing something?

SJM

From: Francesco A. DeLuca <FDeLuca@ebglaw.com>
Sent: Monday, July 18, 2022 11:27 AM
To: Steven Moser <steven.moser@moserlawfirm.com>
Cc: Jeffrey H. Ruzal <JRuzal@ebglaw.com>
Subject: RE: Hess v. BBB - Briefing Schedule Extension

Hi Steve,

We have made diligent efforts to locate a third-party vendor to provide us with data we intend to rely on in connection with our arguments that the Court lacks jurisdiction over this dispute, but we require additional time to do so. Please let us know if you would be willing to assent to this request as a professional courtesy.

Best,

Fran

EPSTEIN
BECKER
GREEN

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From: Steven Moser <steven.moser@moserlawfirm.com>
Sent: Friday, July 15, 2022 7:01 PM
To: Francesco A. DeLuca <FDeLuca@ebglaw.com>
Cc: Jeffrey H. Ruzal <JRuzal@ebglaw.com>
Subject: Re: Hess v. BBB - Briefing Schedule Extension

*** EXTERNAL EMAIL ***

What is the basis for the request

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From: Francesco A. DeLuca <FDeLuca@ebglaw.com>
Sent: Friday, July 15, 2022 6:59:42 PM
To: Steven Moser <steven.moser@moserlawfirm.com>
Cc: Jeffrey H. Ruzal <JRuzal@ebglaw.com>
Subject: Hess v. BBB - Briefing Schedule Extension

Hi Steve,

We intend to move for a 3-week extension of the deadline to file our motion to dismiss – making it due on August 12 – and to extend all remaining deadlines accordingly. Please let us know if you would agree to our proposed extension. If we don't hear from you by 5:00 p.m. next Monday (July 18), we will assume that you do not consent, and we will file our request with the court.

Have a good weekend,

Fran



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